

FILED '07 AUG 27 16:14 USDC ORP

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**DENNIS M. MARINO,**

**CV No. 07-277-BR**

**Petitioner,**

**ORDER DISMISSING HABEAS  
CORPUS PETITION**

**vs.**

**SHARON BLACKETTER, Superintendent,  
Eastern Oregon Correctional Institution,**

**Respondent.**

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This matter having come before the Court on the motion of the petitioner to voluntarily dismiss his habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 542 U.S. 296 (2004), is later made retroactive to cases on collateral review, petitioner has leave to reopen this case only as to the *Blakely* issues and the limitations period shall be deemed tolled from the date this order is signed until sixty (60) days after the date of the decision rendering *Blakely* retroactively applicable. If *Blakely* is made retroactive and the petitioner moves to reopen this case during the

above-referenced sixty-day period, petitioner may also amend the petition as of right so as to properly plead all *Blakely*-based claims in this court. If the case is reopened, respondent may assert any procedural defenses that were available when this order issued.

IT IS SO ORDERED this 27<sup>th</sup> day of August, 2007.



Anna J. Brown  
United States District Judge

Submitted by:

/s/ Amy Baggio  
Amy Baggio  
Attorney for Petitioner

Lynn Larsen (by consent)  
Attorney for Respondent